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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/612,962 | 07/07/2003 | Hiroyasu Fujimoto | 3629-0106P | 4748 |

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EXAMINER

PIHULIC, DANIEL T

ART UNIT PAPER NUMBER

3662

DATE MAILED: 04/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/612,962

Applicant(s)

FUJIMOTO ET AL.

Examiner

Daniel Pihulic

Art Unit

3662

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 1-3 and 12-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) 18 is/are allowed.
- 6) ☒ Claim(s) 4-6 and 15-17 is/are rejected.
- 7) ☒ Claim(s) 7-11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09/662,627.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 3662

1. Claims 16 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 16 recites the limitation "The depth measuring apparatus" in line 1. There is insufficient antecedent basis for this limitation in the claim. It would also appear that it would be more appropriate for claim 16 to depend from claim 7.

Claim 17 recites the limitation "The depth measuring apparatus" in line 1. There is insufficient antecedent basis for this limitation in the claim.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 4, 6 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by US5428341. The US5428341 reference discloses the utilization of a display instrument (R) having a display screen (10) for displaying a predetermined image (see 11 on FIG. 7C) and an alarm (see 11 on FIG. 7D) in an emergency, wherein the predetermined image is displayed on the display screen at low brightness, and the screen is changed to a high brightness during an alarm time (see claim 14) as recited the claim 4.

With regards to claim 6 the US5428341 reference discloses the display screen flashes during the alarm time (see claim 18).

With regards to claim 15 the US5428341 reference discloses a display apparatus, comprising: a display instrument (R) having a display screen (10) for displaying a predetermined image (see 11 on FIG. 7C) and an alarm (see 11 on FIG. 7D) in an emergency, wherein the predetermined image is displayed on the

display screen at low brightness, and the screen is changed to a high brightness during an alarm time (see claim 14) and then flashes during the alarm time (see claim 18).

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over US5428341 in combination with US5737246. The US5428341 reference discloses the utilization of a display instrument (R) having a display screen (10) for displaying a predetermined image (see 11 on FIG. 7C) and an alarm (see 11 on FIG. 7D) in an emergency, wherein the predetermined image is displayed on the display screen at low brightness, and the screen is changed to a high brightness during an alarm time (see claim 14) as recited in the claim. The difference between the US5428341 reference and the claim is that the claim recites the utilization of an alarm sound generating means. The US5737246 reference teaches that it was well known in the art to utilize an alarm sound generating means (7). It would have been obvious to modify the US5428341 reference to utilize an alarm sound generating means as motivated by the US5737246 reference to enable the US5428341 system to alert users audibly.

6. Claims 7-11 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claim 18 is allowed.

Art Unit: 3662

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Pihulic whose telephone number is 571-272-6977. The examiner can normally be reached on Tuesday through Thursday from 5:30 a.m. to 4 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Tarcza, can be reached on 571-272-6979.

The fax phone numbers for the organization where this application or proceeding is assigned are:

703-872-9306 for official responses, and

571-271-6977 for unofficial communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-6584.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/ Dan Pihulic /
Daniel Pihulic
Primary Examiner
Art Unit 3662